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REMARKS

The Examiner's Final Office Action of June 3, 2003, has been reviewed.

The Examiner has objected to the Title of the application. In response thereto, Applicant has amended the title herein.

The Examiner has rejected Claims 2 and 5 - 13 "under 35 U.S.C. 103(a) as being unpatentable over Allen (USPN 5507794)" and has rejected Claims 1, 3 and 4 "under 35 U.S.C. 103(a) as being unpatentable over Allen (USPN 5507794) in view of Thomas et al. (USPN 5215080)." These rejections are traversed.

The present invention differs from the prior art in the basic structure and function of the system. Allen and Thomas both teach a support means which holds the cooling pads against a body surface area. In the present invention, gravity holds the patches against the body. The jacket used to contain the ice patch merely holds and contains the ice patch. The jacket does not hold the cold patch in place.

More specifically, there are several features of the present invention which are claimed, but not found in the prior art (taken alone or in combination). Consider in Claim 1, the "ice patch" plus the "jacket" plus the "decorative indicia comprising two felt ears and a round felt nose (etc)" and "a carrying case". In addition is the ice patch with a "diameter of about 3.5 inches" and the jacket "with a diameter of about 4 Inches". No prior art teaches or suggests the overall combination as claimed,

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or the claimed details of the components. These same components in combination in detail are set out in Claim 2 as well as Claims 3-13.

In dismissing these claimed features as unpatentable, the Examiner asserts that the modified prior art "would not change the ability of the device to provide therapeutic cooling to a user". Such may or may not be so, but the present invention is more efficient for the reasons set forth above. The prior art lacks a teaching or a suggestion of the structure as well as the function of the present invention as claimed.

Another aspect which differentiates between the invention and the prior art is usage. The anticipated usage of the present invention comprises a user placing the jacket containing the coolant against the eye area while lying down. Gravity holds the jacket to the body without the use of any other support means. The Allen invention uses a support member 10 (Column 2, Lines 52-55) and the Thomas invention uses a insulating type of support means (Column 3, Lines 63-70) to hold the cooling packets close to the body. Neither Allen nor Thomas teaches the use of gravity to hold the cooling patch in place.

One experienced in the art would be aware of the fact that temperature, or a source of heat or cold, held tightly against the skin can amplify the effect of the heat or cold to the point of causing damage to the tissue. The present invention allows

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the cooling patch to rest loosely against the skin, thereby
alleviating the risks attendant with temperature and pressure.

The inventor's specification teaches a carrying case, which
should not be confused with a means to hold the pads against the
body's surface. The carrying case may be used to hold the
patches as they are being chilled in a refrigerator or freezer,
or the patches may be chilled or frozen separately. The tie,
which is associated with the carrying case, is to secure the
closure of the case, and not to secure the case to a body's
surface.

It is deemed that the amendments herein overcome all grounds
of objection and rejection. Reconsideration and a Notice of
Allowance are requested.

If the Examiner is not of the opinion that this amendment
places the application in condition for allowance, he is
requested to enter the amendment for purposes of appeal.